

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)	
)	
)	
)	I.D. Nos. 2103000123
v.)	2010012972
)	2109006816
)	2111011522
DAVON WALKER,)	
)	
Defendant.)	

ORDER

Submitted: March 14, 2023

Decided: May 8, 2023

AND NOW TO WIT, this 8th day of May 2023, upon consideration of Davon Walker (“Defendant”)’s Motion for Modification/Reduction of Sentence under Superior Court Criminal Rule 35, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1. Defendant actively participated in criminal street gang activity with the knowledge that its members engaged in or had engaged in a pattern of criminal activity which included various acts of murder, firearm offenses, assault first degree, and robberies.¹ For his participation in said gang activity, Defendant was indicted

¹ See Crim Id. N210300123, D.I. 37.

on three counts of Murder First Degree with respect to his role in the killing of three men.²

2. Defendant accepted and pled guilty to three counts of Murder Second Degree, one count of Conspiracy First Degree, and one count of Gang Participation.³ The State and Defendant, through counsel, agreed to a recommended unsuspended sentence of fifty-three years. Accordingly, on August 26, 2022, this Court imposed the recommended sentences.⁴

3. On November 9, 2022, Defendant filed his first Motion for Sentence Modification/Reduction under Superior Court Rule 35(b), asking this Court to “suspend non-minimum mandatory Level V sentence for completion of educational and rehabilitative programs.”⁵ The Court denied the motion.⁶ Defendant now files this Motion reiterating the identical motion and seeking the same relief.

4. Defendant’s request is barred as repetitive.⁷ Rule 35 does not allow

² Crim Id. N210300123, D.I. 37.

³ Crim Id. N210300123, D.I. 1.

⁴ Defendant was sentenced as follows: (1) for each count of Murder Second Degree—to forty years at Level V, suspended after fifteen years (minimum mandatory), (2) for Conspiracy First Degree—to five years at Level V, and (3) Gang Participation—to three years at Level V. Crim Id. N210300123, D.I. 40.

⁵ *Id.*

⁶ Crim Id. N210300123, D.I. 41.

⁷ Superior Court Rule 35(b) reads that “[t]he court will not consider repetitive requests for reduction of sentence.” Del. Super. Ct. Crim R. 35(b). A motion is considered repetitive when it “is preceded by an earlier Rule 35(b) motion, even if the subsequent motion raises new arguments.” *State v. Culp*, 152 A.3d 141, 144 (Del. 2016).

the Court to use its discretion to ignore this bar.⁸

IT IS SO ORDERED that the Motion for Reduction of Sentence is
SUMMARILY DISMISSED.

/s/ Vivian L. Medinilla
Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Defendant
Investigative Services Office

⁸ *Culp*, 152 A.3d at 145 (reversing the Superior Court's decision to grant defendant's Motion for Modification where the motion was repetitive and untimely).